IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CRP.No. 837 of 2006()

OPELE.60/1996 of ADDL.DISTRICT COURT-I,MAVELIKKARA
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REVN. PETITIONER: RESPONDENT

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONERS
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1. SRI. ABUBAKAR,
MANDASSERIL, ERUVA EAST P.O.,
KAYAMKULAM.

2. SMT. ISHA BEEVI,
MANDASSERIL, ERUVA EAST P.O., KAYAMKULAM.

3. SRI. IBRAHIMKUTTY,
MANDASSERIL, ERUVA EAST P.O.,
KAYAMKULAM.

4. SRI. BASHEERKUTTY,
MANDASSERIL, ERUVA EAST P.O., KAYAMKULAM.

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
SRI.M.S.NISHAD

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON IA 3071/06 IN CRP 837/06

DISMISSED.

SD/- M.N.KRISHNAN,JUDGE.

6/12/2007

M.N.Krishnan, J.

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C.R.P.No.837 of 2006

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Dated this the 6th day of December, 2007.

ORDER

This revision petition is filed against the order of the Additional District Judge, Mavelikara in O.P.(Ele) No.60 of 1996. The case of the revision petitioner is that the amount awarded is high and the court should not have awarded the amount of Rs.32,792/-. Learned counsel also brought to my notice that the court below has relied upon the decision in **Kumba Amma** v. **K.S.E.B.** v. 2000(1) K.L.T. 542. In a batch of cases, the Supreme Court has directed this Court to reconsider the matter and has held that each case has to be decided on the facts and circumstances of that case. It is held so in the decision reported in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1, which reads as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or

> through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

In the light of the enunciated principles laid down by the Supreme Court, the matter requires consideration at the hands of the court below and it may be absolutely necessary to have additional documentary and oral evidence of both the parties in support of their respective contentions.

2. Therefore, the award under challenge is set aside and the matter is remitted back to the court below for fresh consideration after affording equal opportunities to both parties for adducing evidence and dispose of the matter in accordance with the decision of the Apex Court reported in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1. The belated deposit made by the Board at the time of granting stay is ratified and the court below

is directed to accept it and and the petitioner in the Writ Petition is permitted to withdraw that amount. Parties are directed to appear before the court below on 15.1.2008.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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